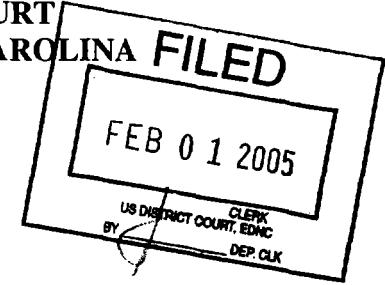


**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Civil Action No. 5:05-CV-48-FL(1)**



Richard P. Nordan, as Ancillary )  
Administrator for the separate Estates of )  
STEPHEN H. HELVENSTON, MIKE R. )  
TEAGUE, JERKO GERALD ZOVKO and )  
WESLEY J. K. BATALONA, )  
Plaintiff, )  
v. )  
BLACKWATER SECURITY )  
CONSULTING, LLC, a Delaware Limited )  
Liability Company; BLACKWATER )  
LODGE AND TRAINING CENTER, INC. )  
a Delaware Corporation, JUSTIN L. )  
McQUOWN, an individual; and THOMAS )  
POWELL, an individual, )  
Defendants. )

---

**DEFENDANT JUSTIN L.  
MCQUOWN'S MOTION  
TO DISMISS**

**DEFENDANT, JUSTIN L. MCQUOWN'S, MOTION TO DISMISS**

Defendant, Justin L. McQuown, files the following Motion to Dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure:

1. For the reasons stated in more detail in the attached Memorandum of Law in support of this Motion, the Defense Base Act, 42 U.S.C. §§ 1651 *et seq.* and the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 933, provide the exclusive remedy available to Plaintiff for the claims alleged in the Complaint.

2. Accordingly, the Complaint fails to state a claim upon which relief can be granted and the action should be dismissed with prejudice.

WHEREFORE, Defendant, Justin L. McQuown, respectfully requests that the Court dismiss this action against him with prejudice.

Dated: February 1, 2005.

Respectfully submitted,

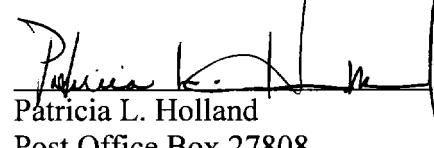
**Powell Goldstein LLP**



---

Ralph J. Caccia  
DC Bar No. 412557  
William C. Crenshaw  
DC Bar No. 968545  
901 New York Ave., N.W.  
Third Floor  
Washington, D.C. 20001  
202-624-7380 (phone)  
202-624-7222 (fax)

**Cranfill, Sumner & Hartzog, LLP**



---

Patricia L. Holland  
Post Office Box 27808  
Raleigh, North Carolina 27611-7808  
Telephone: (919) 828-5100  
Facsimile: (919) 828-2277  
State Bar No. 8816  
LR 83.1 Counsel

ATTORNEYS FOR JUSTIN L. MCQUOWN

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day served the foregoing MOTION TO DISMISS in the above-entitled action on all of the parties to this cause by:

— Hand delivering a copy hereof to the attorney for each said party addressed as follows:

✗ Depositing a copy hereof, postage prepaid, in the United States Mail, addressed to the attorney for each said party as follows:

— Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each said party as follows:

— Telecopying a copy hereof to the attorney for each said party as follows:

David F. Kirby, Esq.

William B. Bystrynski, Esq.

Kirby & Holt, LLP

Post Office Box 31665

Raleigh, North Carolina 27622

*Attorneys for Plaintiff*

Daniel J. Callahan, Esq.

Brian J. McCormack, Esq.

Marc P. Miles, Esq.

Callahan & Blaine, APLC

3 Hutton Centre Dr., Ste. 900

Santa Ana, California 92707

*Attorneys for Plaintiff*

Fred F. Fielding, Esq.

Margaret A. Ryan, Esq.

WILEY REIN & FIELDING, LLP

1776 K Street NW

Washington, DC 20006

Mark A. Ash, Esq.

Kirk G. Warner, Esq.

SMITH, ANDERSON, BLOUNT, DORSETT, MITCHELL &  
JERNIGAN, L.L.P.

Post Office Box 2611

Raleigh, North Carolina 27602

*Attorneys for Blackwater Lodge and Training Center, Inc., and  
Blackwater Security Consulting, LLC*

This the 1<sup>st</sup> day of February, 2005.

  
CRANFILL, SUMNER & HARTZOG, L.L.P.